

## FORTY-FIRST DAY.

SENATE CHAMBER,  
AUSTIN, February 27, 1889.

Senate met pursuant to adjournment.

Lieutenant-Governor Wheeler in the chair.

Roll called.

Quorum present.

Prayer by the Chaplain, Dr. Smoot.

On motion of Senator Stephens,

The reading of the Journal of yesterday was dispensed with.

## PETITIONS AND MEMORIALS.

By Senator Allen:

A petition from the citizens of the city and county of Denton, protesting against the passage of a railroad commission bill.

Referred to Committee on Internal Improvements.

A petition from sixty farmers of Collin county, favoring the passage of a railway commission bill.

Referred to Committee on Internal Improvements.

By Senator Glascock:

Petition of farmers of Williamson county, favoring a railroad commission.

Referred to Committee on Internal Improvements.

Petition of citizens of Taylor, opposing a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Townsend:

Petition of citizens of Colorado county, favoring a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Cranford, by request:

Two petitions of citizens of Hunt county, favoring a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Morris:

Petition of seventy-three farmers of Cherokee county, favoring a railroad commission.

Referred to Committee on Internal Improvements.

## REPORTS OF STANDING COMMITTEES.

By Senator Seale:

COMMITTEE ROOM,  
AUSTIN, February 26, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

Your Committee on Agriculture, Insurance, Statistics and History, to whom was referred

Senate bill No. 286, entitled "An act to authorize the Commissioner of Insurance, Statistics and History to purchase the set of public records, documents, journals and other statistical data relating to the history of Texas and now held and owned by J. K. Holland, and to make an appropriation therefor,"

Have had the same under consideration, and instruct me to report it back to the Senate with the recommendation that it do pass.

All of which is respectfully submitted.

SEALE,  
Chairman.

Bill read first time.

Senator Frank sent up the following minority report:

COMMITTEE ROOM,  
AUSTIN, February 27, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

A minority of Judiciary Committee No. 2, to whom was referred

Senate bill No. 170, entitled "An act to amend articles 186 and 186a of the Penal Code of the State of Texas, as amended by an act approved April 2, 1887, passed by the Twentieth Legislature, regulating sales on Sunday," failing to agree with a majority of said committee (who report this bill favorably) upon the virtues, merits and necessity of the legislation contemplated by this bill, beg leave to dissent from the majority of said committee and file this minority report for the following reasons to-wit:

First. The universal custom and law in all civilized and christian countries of setting aside one day in seven as a Sabbath or day of rest, is recognized and respected and observed, and on which day manual labor, as commonly understood, is suspended by all alike.

Second. This bill seeks to sanction by law the opening of all business houses and the transaction of business in mercantile stores, saloons, circuses, theaters, variety theaters, dances at disorderly houses, low dives, and places of like character, etc, before the

hour of 9 o'clock a. m. and after 4 o'clock p. m. on Sundays, which we believe to be contrary to good morals and unjust to a very large number and class of employes employed in these various places of business and amusements, who are entitled to their Sabbath, or one day of rest in seven, and should be allowed to have that one day of rest in seven free from their employers, and to themselves, which they could not have if they were required to work on that day till 9 o'clock in the morning, and after 4 o'clock in the evening, which they would be required to do if the law permitted such places to be kept open at all on Sunday, for business or amusements.

Third. The law, as it now is, and has been for a long time, prohibits the opening of the places of business (with a few exceptions) mentioned in article 186 of the Penal Code of the State of Texas, at all on Sunday, and we believe the law to be a good and wholesome one and have heard of no complaint against it or reason or demand for its repeal or amendment.

Fourth. We believe it to be an unwise, useless and dangerous practice to be continually and recklessly amending and changing our statutes unless flagrant defects or wrongs exist in them, and then the change should be demonstrated to be a good, wise and judicious improvement on the old or existing law. In this proposed change we cannot see where any good is promised to the people or society, but on the contrary, we see where the people and society may be injured and corrupted, and evil rather than good result from the passage of this bill.

Wherefore a minority of your committee ask that the report of the majority herein made be rejected and not adopted, but that this minority report be adopted in lieu of said majority report, and that said bill do not pass.

All of which is respectfully submitted.

FRANK,  
STEPHENS,  
ABERCROMBIE,  
CRANFORD,  
SEALE.

#### BILLS AND RESOLUTIONS.

By Senator McDonald:

A bill to be entitled "An act to provide for payment of fees to district and county attorneys in quo warranto and injunction cases to which the State is a party."

Referred to Judiciary Committee No. 1.

By Senator Townsend:

A bill to be entitled "An act for the relief of John Littleton, a citizen of Lavaca county, Texas."

Referred to Committee on Finance.

By Senator Seale:

*Resolved*, That the Senate do now go into a continuous session, eating nothing but tamales and drinking nothing but ice water until the railroad commission bill is finally disposed of.

Ordered to lie over under the rule.

After having publicly read its title, the President gave notice of signing, and did sign, in open session of the Senate,

Senate bill No. 8, "An act to amend section 14 of an act to amend articles 8 and 14 of an act to redistrict the State into judicial districts and fix the times for holding courts therein, and to provide for the election of judges and district attorneys in said districts at the next general election to be held on the first Tuesday after the first Monday in November, 1884, approved April 9, 1883; to create the Fortieth judicial district of the State of Texas, fix the time for holding court therein, and provide for the appointment of a district judge for said district, approved March 27, 1885; to create the Forty-fourth judicial district of the State of Texas, fix the times for holding court therein and to provide for the appointment of a district judge for said district."

The following message was received from the House:

HOUSE OF REPRESENTATIVES,  
AUSTIN, February 27, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

SIR—The House has adopted the accompanying concurrent resolution authorizing the Superintendent of Public Buildings and Grounds to remove the safe known as the State Treasurer's safe, now in the Temporary Capitol, into the office of the Superintendent of Public Instruction.

W. M. IMBODEN,  
Chief Clerk House of Representatives.

The House concurrent resolution just received from the House was referred to Committee on Public Buildings and Grounds.

Senator Burney moved to add two more Senators to the free conference committee appointed to consider the Senate amendments to House bill No. 21.

Adopted.

The President added to said free conference committee Senators Stephens and Frank.

#### THE RAILROAD COMMISSION BILL

Was laid before the Senate as unfinished business, with Senator Lane in possession of the floor.

Senator Lane finished his argument in opposition to the measure.

Senator Field spoke in favor of a railroad commission.

Senator Sims obtained the floor to argue the pending measure, and

Senator Lane moved to suspend the pending business until the afternoon session, and that Senator Sims then be allowed the floor.

Adopted.

By leave, the following reports and petitions were sent up, as follows:

By Senator Townsend:

COMMITTEE ROOM,  
AUSTIN, February 27, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

Your Committee on Public Buildings and Grounds, to whom was referred

House concurrent resolution No. 27,

Have had the same under consideration, and instruct me to report it back to the Senate with the recommendation that it do pass.

The resolution authorizes the Superintendent of Public Buildings and Grounds to remove the safe in the Temporary Capitol, known as the State treasury safe, into the office of the Superintendent of Public Instruction.

All of which is respectfully submitted.

TOWNSEND,  
Chairman.

Resolution read first time.

By Senator Davis:

COMMITTEE ROOM,  
AUSTIN, February 27, 1889.

*Hon. T. B. Wheeler, President of the Senate:*

Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 8, being "An act to

amend section 14 of an act to amend articles 8 and 14 of an act to redistrict the State into judicial districts, and to fix the times for holding courts therein, and to provide for the election of judges and district attorneys in said districts at the next general election, to be held on the first Tuesday after the first Monday in November, 1884, approved April 9, 1883, to create the Fortieth judicial district of the State of Texas, fix the times for holding courts therein, and provide for the appointment of a district judge for said district, approved March 27, 1885, to create the Forty-fourth judicial district of the State of Texas, fix the times for holding court therein, and to provide for the appointment of a district judge for said district."

And find the same correctly enrolled, and have this day, at 10:40 o'clock a. m., presented the same to the Governor for his signature.

DAVIS,  
Chairman.

By Senator Frank:

Petition of thirty-six citizens of Bosque county, opposing a railroad commission.

Referred to Committee on Internal Improvements.

Petition of one hundred and forty-two merchants and farmers of Erath county, favoring a railroad commission.

Referred to Committee on Internal Improvements.

Petition of one hundred and twenty-eight citizens of Hood county, opposing a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Abercrombie:

Memorial from lumbermen, opposing a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Maetze:

Three petitions of voters of Austin county, favoring a railroad commission.

Referred to Committee on Internal Improvements.

Resolution of Washington County Farmers' Alliance, favoring a railroad commission.

Referred to Committee on Internal Improvements.

On motion of Senator Claiborne, Senate bill No. 220, a bill to be enti-

tled "An act to amend article 218 of the Penal Code of the State of Texas,"

Was taken up out of its regular order and read the second time, with a committee amendment striking out the emergency clause.

The committee amendment was adopted.

Senator Glasscock moved to

Amend by striking out the word "two," in line 16, and insert in lieu thereof the word "one."

Adopted.

Senator Pope moved to

Amend by adding proviso: "Provided that the commissioners' court may, in their discretion, order the prisoner so escaping to be 'hobbled,' after his capture.

Senator Claiborne moved to table the amendment.

Senator Pope moved, as substitute for that motion, to table the amendment and the bill.

The President held that the friends of the bill had a right to perfect it before it was tabled, and therefore suspended action on Senator Pope's motion to table the bill and amendment.

The vote being taken on the motion of Senator Claiborne to table the amendment offered by Senator Pope,

The amendment was tabled.

Senator Johnson moved to

Insert after the word "escape," in line 9, "or who shall desire to escape."

On motion of Senator Glasscock,

The amendment was tabled.

Senator Stephens moved to

Amend by inserting the words "not to exceed the time of the unexpired term," in lieu of the words "one year's," line 16.

Senator Burney offered the following substitute for the amendment:

Amend section 1 by striking out the words "one year," in line 16, and insert therefor "not exceeding the period of time for which he was originally confined."

Senator Townsend offered the following amendment to Senator Stephens' amendment:

Amend by striking out the word "double."

Senator Pope moved the previous question.

Seconded.

The main question was ordered, and

Senator Townsend's amendment was adopted.

Senator Burney's substitute was lost, and

Senator Stephen's amendment was adopted.

Senator Pope's motion to table the bill was lost.

The bill was ordered engrossed.

On motion of Senator McDonald,

The Senate adjourned till 2:30 p. m.

#### AFTERNOON SESSION.

Senate met pursuant to adjournment.

Lieutenant-Governor Wheeler in the chair.

Roll called.

Quorum present.

Senator Sims resumed the discussion of the railroad commission bills and made a lengthy argument in opposition thereto.

Senator Tyler gained the floor to discuss the matter and

Senator Johnson moved to suspend further discussion until to-morrow, and that Senator Tyler be allowed the floor to-morrow after morning call.

Adopted.

Senate joint resolution No. 3, "Joint resolution to amend section 4, article 6 of the Constitution of the State of Texas,"

Was laid before the Senate and read the second time with a favorable committee report.

Senator Atlee moved to

Strike out all counties bordering on the Rio Grande, and strike out the word "other" in line 12.

Adopted.

Senator Burney moved to

Amend by inserting "may" after the word "and" in line 9.

Adopted.

The Senate refused to engross the joint resolution by the following vote:

#### YEAS—7.

Armistead,  
Burney,  
Claiborne,  
Davis,

Harrison,  
Kimbrough,  
Maetze.

#### NAYS—17.

Abercrombie,  
Allen,  
Atlee,  
Cranford,  
Field,  
Frank,  
Ingram,  
Jarvis,  
Johnson,

Lane,  
McDonald,  
Morris,  
Seale,  
Sims,  
Stephens,  
Tyler,  
Woodward.

## ABSENT—6.

Burges,  
Glasscock,  
Pope,

Simkins,  
Townsend,  
Upshaw.

By permission, the following bills and petitions were offered:

By Senator Woodward:

A bill to be entitled "An act for the relief of J. M. Branaugh, providing for the payment of treasury warrant No. 1247, with ten per cent interest thereon, which was issued to him February 6, 1861, for services rendered by him in the protection of the frontier prior to January 28, 1861."

Referred to Committee on Claims and accounts.

By Senator Seale:

A bill to be entitled "An act to amend an act passed by the Twentieth Legislature at its regular session, approved April 2, 1887, entitled an act to amend an act passed at the regular session of the Eighteenth Legislature and approved April 18, 1883, entitled an act to amend article 430 of section 1, and to repeal section 2 of an act entitled an act to amend articles 423, 424, 425, 426, 427, 428, 429 and 430a, and to create article 426 1-2, and to repeal article 430, of chapter 5, title 13, of the Penal Code of the Revised Statutes, for the protection of fish and game, approved March 15, 1881."

Referred to Judiciary Committee No. 2.

By Senator Johnson:

Petition of citizens of Gregg county, asking for a poll tax qualification to suffrage.

Referred to Committee on Finance.

Petition of citizens of Gregg county, in opposition to occupation tax.

Referred to Committee on Finance.

Petition of citizens of Tyler, opposing a railroad commission.

Referred to Committee on Internal Improvements.

House bill No. 36, a bill to be entitled "An act to amend section 46, chapter 25, of the acts of 1885, entitled an act to amend chapter 79 of the acts of 1883, entitled an act to amend chapter 48 of the acts of 1887, an act to amend section 46 of an act to encourage stockraising and to protect stock-raisers, approved April 22, 1879, and amended April 4, 1881, and April 12, 1883, and March 27, 1887,"

Was laid before the Senate, and On motion of Senator Atlee, The bill was postponed subject call and ordered to be printed.

Senate bill No. 266,

A bill to be entitled "An act to provide the manner of assessing and collecting a tax on property in newly created counties and in territory cut off from one county and attached to another county, to pay their pro rata share of the indebtedness of the parent county existing at the time of the severance of a part of its territory,"

Was laid before the Senate and read the second time with a favorable committee report.

Senator Burney moved to

Amend by adding to the end of the bill another section to read as follows:

Section 5. When any county heretofore or that may be hereafter created has organized, it shall be the duty of the commissioners' court of such county to levy and have collected on all property in this county, such rate of taxation to pay the pro rata share of the debt due by such county, as the commissioners' court of the parent county shall levy on property in said parent county to pay such debt.

Adopted.

Senator Burney moved to

Amend section 1 by inserting after the words "new county" in line 4 the words "and in all counties heretofore created."

Adopted.

Senator Glasscock moved to

Amend the caption of the bill by adding thereto the following: "And to amend article 658, title 22, of the Revised Civil Statutes."

Adopted by the following vote:

## YEAS—24.

Abercrombie,	Johnson,
Allen,	Lane,
Armistead,	Maetze,
Atlee,	McDonald,
Burney,	Morris,
Cranford,	Seale,
Davis,	Simkins,
Field,	Sims,
Frank,	Stephens,
Glasscock,	Townsend,
Ingram,	Tyler,
Jarvis,	Woodward.

## NAYS—1.

Kimbrough.

## ABSENT—5.

Burges,  
Claiborne,  
Harrison,

Pope,  
Upshaw.

Senator Armistead moved to Amend by striking out all of line 3, section 1, after the word "State." Adopted.

Senator Tyler moved to Amend section 1 by adding the following: "Provided, that the provisions of this act do not apply to new counties heretofore created out of old counties."

Lost.

The bill as amended was ordered engrossed.

Senator Tyler entered a motion to reconsider the vote just taken.

On motion of Senator Johnson, Substitute Senate bill No. 280, a bill to be entitled "An act to regulate civil actions for libel, slander or defamation of character," was laid before the Senate and read the second time with a committee substitute.

The committee substitute was adopted.

Senator Johnson moved to Amend section 6 by inserting after the word "intend," in line 4, the following:

"Upon the ground of privileged communication."

Adopted.

Senator Stephens moved to

Amend section 3, by adding thereto the words "provided, that it does not appear that said publication was originally maliciously made."

Adopted.

The bill as amended was ordered engrossed.

On motion of Senator Townsend, Senate bill No. 171, a bill to be entitled "An act to regulate the sale of cotton in the seed and to provide a punishment for its violation," was laid before the Senate and read the second time with a favorable committee report.

Senator Morris moved to include chickens and hogs.

On motion of Senator Townsend, The amendment was tabled.

Senator Davis moved to

Strike out all after the word "list," in line 2, and insert "for public inspection."

Adopted.

Senator Allen moved to

Add after the word "cotton," in line 3, "whether in the seed or lint."

Lost.

Senator Glasscock moved the previous question.

Seconded.

The main question was ordered, and

The Senate refused to engross the bill.

On motion of Senator McDonald, Senate bill No. 94, a bill to be entitled "An act to legalize the donation of property to establish or assist in establishing professorships or scholarships in the University of Texas, or any of its branches, and to provide for the protection and security of their benefits in accomplishing the objects of their donors,"

Was laid before the Senate and read the second time with a favorable committee report.

Senator McDonald offered the following amendment:

Section 6. The crowded condition of business pending before the Legislature, rendering it impracticable to read this bill on three several days, an imperative public necessity authorizes the suspension of the constitutional rule requiring three several readings, and said rule is hereby suspended.

Adopted.

The bill as amended was ordered engrossed.

On motion of Senator McDonald, The constitutional rule was suspended to place the bill on its third reading and final passage by the following vote:

YEAS—25.

Abercrombie,	Jarvis,
Allen,	Johnson,
Armistead,	Kimbrough,
Atlee,	Lane,
Burney,	Maetze,
Clalborne,	McDonald,
Cranford,	Morris,
Davis,	Seale,
Field,	Simpkins,
Frank,	Sims,
Glasscock,	Stephens,
Harrison,	Tyler,
Ingram,	Woodward.

NAYS—None.

ABSENT—2.

Burges,	Townsend,
Pope,	Upshaw.

The bill was then read the third time and

Passed by the following vote:

YEAS—25.

Abercrombie,	Atlee,
Allen,	Burney,
Armistead,	Cranford,

Kimbrough,	McDonald,
Lane,	Morris,
Davis,	Seale,
Field,	Simkins,
Frank,	Sims,
Glasscock,	Stephens,
Harrison,	Townsend,
Ingram,	Tyler,
Jarvis,	Woodward.
Maetze,	

NAYS—None.

ABSENT—5.

Burges,	Pope,
Clairborne,	Upshaw.
Johnson,	

On motion of Senator Maetze,  
The Senate adjourned till 10 o'clock  
to-morrow morning.

*Proceedings on the presentation to the  
State of the portrait of Stephen F.  
Austin.*

IN HOUSE OF REPRESENTATIVES,  
Tuesday, February 26, 1889.

At 4 p. m. the honorable Senate of Texas was announced at the bar of the House, and seated along the aisle in chairs prepared for them, and Hon. T. B. Wheeler, President, was invited to a seat at the left of the Speaker.

The Speaker announced as

#### SPECIAL ORDER

for this hour the presentation to the State of Texas of a full sized portrait of Stephen F. Austin by W. Joel Bryan and Guy M. Bryan, jr., nephew and grand nephew of the noble patriot and statesman, in accordance with a resolution adopted by this House on the 17th of January, and an announcement by the Speaker on the 23d instant.

Hon. A. W. Terrell, representing the donors, was escorted to the Speaker's stand by Hon. Guy M. Bryan, and was seated at the right of the Speaker.

The potrait, veiled with a Lone Star flag, was borne into the hall and placed at the right of the Speaker's stand, by the following veterans:

Hon. Steph. H. Darden, A. Deffenbaugh, J. Adkisson, James M. Hill, John M. Swisher, J. E. Lewis, John C. Duval and General W. P. Harde-  
man.

The clerk then read from the Journal of the 17th of January the following proceedings:

*Hon. F. P. Alexander, Speaker of the  
House of Representatives.*

SIR—The undersigned, nephew and grand nephew of Stephen F. Austin, beg leave to present to the State of Texas the full-size portrait of Austin as he appeared in 1824, to replace the one destroyed by the burning of the old capitol. We respectfully ask that it be accepted by the House and placed on the wall of the House of Representatives on the right of the Speaker's stand, where the past generation familiar with the character and services of General Austin put the one destroyed by fire.

We further ask, if the portrait be accepted, that Hon. A. W. Terrell may represent us on the floor of the House at such time as may be designated for the presentation.

Respectfully, etc.,

W. JOEL BRYAN,  
GUY M. BRYAN, JR.

Mr. Hamby offered the following resolution:

*Resolved*, That the portrait of Stephen F. Austin be accepted by the House with grateful acknowledgments to the donors, Messrs. W. Joel Bryan and Guy M. Bryan, jr., and that their request in regard to the placing of the portrait and its presentation by Hon. A. W. Terrell be granted by the House, and that the time of presentation be indicated by the Speaker.

The resolution was read first and second times and adopted.

Hon. A. W. Terrell was then introduced by the Speaker and delivered an eloquent address on the life, character and times of Gen. Stephen F. Austin.

#### ADDRESS OF JUDGE A. W. TERRELL.

*Mr. Speaker and Gentlemen of the  
House:*

When more than the third of a century ago I first saw the old capitol building of the Republic, which was erected by the frontiersmen of Texas, a single portrait on the right of the Speaker's chair adorned the walls of the House of Representatives. It was the portrait of Stephen F. Austin, and was placed there by those who knew him best.

When in 1855 another State House had been completed, a full-length portrait of Austin again ornamented the walls of the House to the right of the Speaker; and now when a more imposing and enduring structure, containing within its ample walls the visible government of this mighty

State, has been erected, you but preserve your alignment with a generation that has passed, by elevating to its old place in the hall where the representatives of the people assemble, the portrait of Stephen F. Austin.

In the name of those who revere the memory of Austin, and by the courtesy of this honorable House, I now perform the pleasing task of presenting to Texas through you the splendid full-length portrait of that illustrious man, which has just been borne into this hall by the heroic veterans of a race now almost gone.

I trust that without violating the proprieties of the occasion I may now, as a citizen of Texas, connect the written truths of history, which pertain to the public services of this pioneer statesman, with reflections upon his personal character as it was known to his associates.

If we would properly understand the full magnitude of the enterprise which Austin accomplished in the colonization of Texas, we must measure the difficulties in his path, which were intensified by race prejudice, and to which no historian has done justice.

From the period when Louisiana was ceded to Spain by the French monarch, in 1762, to its retrocession by the treaty of San Ildefonso, in 1800, no progress was made in the settlement of Texas. Under the leadership of the wonderful man who then controlled the destiny of France, and who needed money in his approaching contest with the crowned heads of Europe, that government ceded the territory of Louisiana, in 1803, to the United States. From 1803 to the treaty of DeOnis, in 1819, both Spain and the United States claimed the territory of Texas. The United States claimed that the western limit of the territory of Louisiana was the Rio Grande river, and Spain insisted that it was bounded by the Sabine. The treaty of DeOnis settled the controversy by making Sabine the boundary.

#### EARLY EFFORTS TO COLONIZE TEXAS.

During the period of sixteen years no less than four efforts were made to occupy and colonize Texas—three by armed invasions organized in the United States, and one by the government of Spain.

In 1804 the Spanish government, jealous of the aggressive spirit of the Anglo-American, decreed the settlement of three thousand families on

the San Marcos river. The enterprise failed.

In 1813 Texas was invaded by an armed force from the United States under the leadership of Gutierrez and Magee. Again, in 1816, an invading force came commanded by Mina and Perry, and another in 1819 commanded by Long. All these invasions were organized in the United States, and all, after suffering and carnage, terminated in failure.

The true history of the invasion of 1813 has never been written. It ended in the victory of Aredondo, who led the Spanish forces at the battle on the Medina, near San Antonio, where more than a thousand men were slain. Each expedition was foiled by the armed resistance of the central government of Mexico, and by the citizens of Bexar. So completely were the various invading forces annihilated that a knowledge of Texas and its vast resources remained a sealed book to the people until Austin came.

An inscrutable providence had decreed that Texas should never be dominated by an armed invader, and that whatever race established here its home in peace should preserve in war the integrity of her boundaries. During the seven years embracing the period of these invasions there was scarcely a family in San Antonio which did not furnish a victim in defensive war.

#### RACE HATRED.

A race hatred had sprung up as the result of these invasions against the people of Anglo-American origin, so implacable that no American was tolerated on Texas soil unless protected by a passport from the Spanish viceroy. Salcido, the governor of the Mexican internal provinces in the east, publicly declared that if he had the power he would not permit a bird to fly across the Sabine from the United States. San Antonio and La Bahia were the only civilized settlements in all the land, and wandering tribes of hostile savages roamed from the Sabine to the Rio Grande.

Such was the condition of Texas when the treaty of DeOnis was consummated in 1819, and such were some of the obstacles to its American colonization. Exploring carefully the history of that period we find one citizen of the United States, and only one, who, in 1820, was not deterred by the race hatred engendered by years of invasion, and who, bold in conscious rectitude, presented himself before Martinez, the political chief, in San Antonio.



## MOSES AUSTIN.

That man was Moses Austin, the father of the original of this portrait. The fact that he had come without a passport from the Spanish viceroy provoked the anger of Martinez, and he peremptorily ordered Austin to depart from Texas.

When he had left the office of Martinez and was crossing the old civil plaza in San Antonio, sick and disappointed, he met the Baron de Bastrop, whom he had known in Louisiana. Bastrop took him to his home, nursed him through sickness, reconciled Martinez and obtained from him permission to colonize three hundred families. That casual meeting with the Baron de Bastrop changed the map of North America, for tracing in their connecting links cause and effect, we find it culminating in the colonization of Texas, the revolution of 1836, annexation in 1846, and the bold sweep of the American flag across the continent.

I am aware, sir, that what I have said, and that what I have still to say, there has been and will be much of that which is trite history, for I am not here to indulge in senseless eulogy, but to present the acts of the great founder of the American civilization in Texas, and when history reveals the grandeur of a man we may derive profit by reviewing its pages.

Moses Austin, who had looked on this goodly land, was destined, like Moses of old, only to look upon it but never to possess the soil on which his posterity would dwell. Robbed and deserted by his companions, he journeyed, starving for eight days on his return before reaching the Sabine, and left as his dying request that his son, Stephen F. Austin, should undertake the colonization of Texas.

## STEPHEN F. AUSTIN'S EARLY LIFE.

How well the son observed the dying request of that father, the growing cities and fruitful fields of this mighty State bear witness.

He was thoroughly equipped, both by nature and study, for the great work before him. Educated in Kentucky, at Transylvania college, at the age of 20 he was a licensed lawyer and a member of the Territorial Legislature of Missouri. So rapid had been his advancement that at reaching the age of 27 he was a United States judge for the Territory of Arkansas. Before him was a life of official distinction and assured independence, but these he renounced without a pang and plunged into the wilderness to establish a new republic.

## PERSONAL APPEARANCE OF AUSTIN.

The portrait before you represents Stephen F. Austin as he appeared in 1824, standing near the bank of the lower Brazos, on the territory of his colonial enterprise.

In stature he was below the medium height, with black hair, dark brown eyes, features classic in their manly beauty, and a complexion, which until tanned by our Southern sun, was fair as that of a flaxen haired woman. On his ample brow intellect and high resolve had fixed their seal, and in that slight but sinewy form was a vital force like that of Hastings and Pizarro, equal to every hardship, and courage equal to every danger.

With seventeen companions he traveled down the Mission trail from Natchitoches to San Antonio. Along that road could still be seen the unburied skeletons of the American invaders who were overtaken and slain after their defeat by Arredondo, ghostly mementoes to the peaceful emigrant of Mexican resentment.

After Austin had come bearing the olive branch of peace, Trespelacios, who was the political chief in 1822, had the skeletons gathered and buried.

## INHABITANTS OF SAN ANTONIO.

Permit me, while speaking of the condition of Texas when Austin came, to correct an error of history as to the character of the people who then lived in San Antonio. Peace, the historian, who wrote in 1838, described them as being in point of intelligence but little better than the Indians who were their most frequent visitors. On the contrary, those who were of Spanish origin had been for nearly one hundred years instructed by the priesthood in all that pertained to history and the literature and science of the period. A line of mission churches dotted the continent from the mouth of the Mississippi to the waters of the Pacific. Priests of the Franciscan order, accompanied by an armed escort, journeyed once every year for nearly a hundred years on their annual visitations by way of San Antonio and El Paso, and thence down by the missions on the Gila river to the Gulf of California.

Traces of their old trail may still be seen from Nacogdoches to San Antonio. By such men the youth of San Antonio were instructed. Never have I met more accomplished gentlemen than the patriot Antonio Navarro and Juan M. Seguin, both of whom are natives of San Antonio.

Thirty years ago they were witnesses before me to establish the crown

grant to the commons of that city. The grant had been buried with the city archives before the battle on the Medina, and every officer of the city who knew of its hiding place was slain in that battle. More than twenty years afterward it was discovered, but the writing had become illegible, and chemical skill was needed to restore the faded characters. Navarro and Seguin were equal to the task, and when employed performed this duty; but just when it was completed Santa Anna came to storm the Alamo, and the grant was again lost, never to be again found.

For nearly a hundred years the youths and maidens of San Antonio were educated, and passed from youth to old age, while buffalo and antelope grazed within sound of the mission bells. Educated they were indeed, but cut off from the outer world, they lived in a city that was ruralizing in the wilderness.

#### AUSTIN'S ARRIVAL IN TEXAS.

Such was San Antonio when Stephen F. Austin presented himself to the political chief Martinez on the tenth of August, 1821. He was promptly recognized as the representative of his father, and at once explored the country between the lower Colorado and Brazos rivers. Thence, returning to New Orleans, he came with the first permanent emigrants to the banks of the Brazos in January, 1822.

Thus Stephen F. Austin established the first permanent colony of American white men in Texas. His contract required that each colonist should bring with him a certificate of good moral character and that he should be a believer in the Christian religion. Sir, I knew many of them, and the sturdy virtue of those first pioneers was not excelled by a like number of men in any land. I have yet to learn that any of Austin's first three hundred was ever convicted or even indicted for a felony.

#### VISITS MEXICO.

And now the revolution of Iturbide compelled Austin to visit the City of Mexico to secure from the new government a recognition of his empresario enterprise. He started on his journey of twelve hundred miles overland, traveling sometimes on horseback, sometimes on foot, beyond Queretero, disguised as a beggar to avoid being plundered by bandits, and at last, in April, 1822, he arrived at the Mexican capital. For twelve months he watched the shifting scenes of the bloody drama which then convulsed Mexico. There he met Iturbide, Santa Anna

and the rival military and civil chiefs of the period, and won the esteem and confidence of all; there he witnessed the coronation of Iturbide as emperor, on August 19, in 1822, and he witnessed also his abdication. There he penned the original draft of the Mexican Constitution in 1824, as his private journals attest, which is now in the possession of his executors, and which was adopted more than a year after his departure, with but few changes.

#### RETURNS WITH UNUSUAL POWERS.

Returning by way of Saltillo in 1823, he obtained from the legislative assembly of Nueva Leon and Coahuila a full confirmation of his contract, and was invested with plenary power over his colonial settlement in Texas. He was made a lieutenant-colonel by De la Garza, and militia commandant, with power to make peace or war with the Indians; to establish courts and provide for the administration of justice. Never before on this continent was any one man invested with such extraordinary powers by any government to whose manners and customs he was an alien.

The colonists were without law; Austin prepared and promulgated for their government civil and criminal laws. They were without judges; Austin established courts for them and appointed judges, who adjudicated their rights. He also established military laws for the defense of his colony. Thus Austin was the first American lawgiver for Texas.

The rude pioneers who followed him to the wilderness bowed without questioning the authority of their chief, and so wisely did he govern that in all his colony no man grew impatient under his authority, or questioned the justness of his acts.

#### FROM 1823 TO 1827.

From 1823 to 1827 his empresario contracts were enlarged, under which he colonized more than a thousand families. This was the happiest period of this man's life.

The emigrants who for months in 1822 had subsisted on mustangs and venison, without bread, salt or coffee, now looked on fruitful fields and plenty everywhere. In their midst was their capital, San Felipe de Austin, where their titles were obtained, and which, like your capital of to-day, was named for the father of Texas. If man's dignity should be in proportion to his usefulness, no man who ever trod Texas soil can rank Stephen F. Austin, for the salient points in his career, which unwritten history will reveal, cannot eclipse the merit of that

patient toil and high intelligence which organized primitive government and prepared and secured the supremacy of just laws.

#### AUSTIN AVERTS WAR IN 1827 AND 1832.

A time of trial and danger was approaching. The colonies were growing stronger and turbulent spirits in eastern Texas precipitated the Fredonian war of 1827, which threatened the destruction of the colonies. Austin, through his influence with Sancido, the Mexican commandant, restored peace and averted the armed interference of Mexico. Thus he who had established the first American settlements was the first and only man whose influence could save them from destruction.

Again in 1832 the flames of war burst forth against the tyranny of Bustamante and culminated in the affairs of Anahuac and Velasco. And now, when the central government dispatched General Mexia, with a military force, to chastise the settlers, who saved them? Austin was then at Saltillo in the legislative department of Coahuila and Texas. He hastened to Matamoros, joined Mexia, came with him to the mouth of the Brazos, and through his influence as a mediator, restored peace. Thus he who had planted saved the colonists a second time. The peace thus secured was celebrated with gratitude and banqueting in the old capitol at San Felipe de Austin, and the grand men of that day hailed Austin as the founder and savior of his country. At a banquet given him he was toasted as "The angel of mercy and the harbinger of peace."

And now the colonies had grown strong the spirit which demanded a separate statehood, in compliance with the Constitution of Coahuila and Texas of 1824, could no longer be repressed. The convention of 1833 established a Constitution for Texas, and looking over all the colonies but one man was found who would undertake the delicate duty of going with that Constitution to the Mexican capital and demand recognition as a State. That man was Stephen F. Austin. Impartial history will one day record the fact that the most earnest opponents of Austin at the Mexican capital were American speculators, headed by the minister from the United States, who insisted on a territorial government for Texas, and for the sale of her lands at the City of Mexico.

#### AUSTIN'S IMPRISONMENT.

History has already declared 'he disastrous issue of that mission. He

was arrested on his return to Saltillo in December, 1833, taken back to Mexico and imprisoned for fifteen months, a portion of that time in a dark, damp dungeon of the inquisition. Thus he who had established the colonies and given them a government and laws, who had twice saved them from the horrors of unequal war, was the first martyr to their aspirations for a separate statehood.

From the hardships of that solitary confinement and the dark vapors of that cold dungeon Austin never recovered. His bold spirit chafed like an imprisoned eagle against his dungeon bars, and when at last he was released, he came forth with wasted frame and tottering step. Returning from his imprisonment he landed again at the mouth of the Brazos on September 1, 1835.

#### AUSTIN'S RETURN.

The butchery at Zacatecas of American and European citizens by the usurper, Santa Anna, who had violated the Constitution of 1824 and established a military despotism, gave warning to Austin of the fate impending over the colonies, and he whose prudence had so often preserved them from destruction now saw no safety but in war.

Only eight days after his return from prison the pioneers came from every portion of the settlements and celebrated his return with festivities and rejoicing. His address to them was calm and statesmanlike. He advised an immediate convention of the people.

#### MADE CHAIRMAN OF CONVENTION OF SAFETY.

'With no government invested with powers for defense, a committee of public safety was organized at once to provide for the defense of the colonies. On the wisdom of that committee must hinge the destiny of Texas. Again the demand for Austin was universal. He was made chairman of the committee of public safety. Nobly did he do his work, for almost in the hour of his appointment he sent forth over the vales and prairies of Texas, like the fiery cross, the ringing appeal that assembled an army at Gonzales. Never on the soil of Texas was there n any assembly of the people of like number, more intellect and self assertion than was found in that little army. Burlesons and the Jacks were there, Thomas J. Rusk was there, Bowie, Fannin and Travis were there, Collingsworth, afterwards the first Chief Justice of the Republic, was there. In that camp was as grand a

galaxy of knights as ever mounted the breach with prince or paladin.

#### AUSTIN ELECTED A GENERAL.

They had come with rifle in hand from every portion of Texas, without organization, and needed a general. Among them was the frail victim of the dungeon, and by universal acclaim on the seventh of October, 1835, Austin was chosen as their leader.

On September 22, 1835, the immortal Travis wrote to him: "All eyes are turned towards you, and the independent, manly stand you have taken has given the sovereigns confidence in themselves. Texas can be wielded by you, and by you only, and her destiny is now completely in your hands."

Those rude pioneers who had left their cabins to defend this land, as they stood there in that camp leaning on their flint-lock rifles, had but one idol and with one voice they demanded—Austin.

Thus he who planted the first colony, framed the first code of laws, established the first courts, issued the first titles—who had twice diverted war from the settlements with its desolation, and was then suffering as the first martyr of the colonies became their first general. How well he acquitted himself history proclaims. Under his leadership Bowie and Fannin defeated the Mexicans at the battle of Concepcion, and, after driving Cos within the walls of the Alamo and burning the grass westward, his capitulation was only a question of time.

#### COMMISSIONER TO UNITED STATES.

Desperate and unequal war was in the prospective and help was needed from the United States; on receiving that help the destiny of Texas hinged. Their ablest men were needed for the work.

Again all men demanded Austin, and with Wharton and Branch T. Archer, he was chosen a commissioner to the States, and hurried forward men, munitions of war and money.

He never sought or desired military fame. When notified by the Consultation that he was needed as a commissioner to the States, when General Cos was penned up and his capture sure, no murmur escaped his lips. He wrote to the Consultation:

"I am at all times ready to serve Texas in any capacity in which I can be most useful, but should I leave at once some prudence will be necessary to keep this army together."

#### HIS BETRAYAL.

From May, 1833, to July, 1836, every day of Austin's life was given to the State. Journeying to and from the Mexican capitol; urging there the separate Statehood of Texas; suffering in a dungeon; chairman of the committee of public safety; commanding the army; soliciting aid from the States—such were his employments.

During that time he had blindly trusted those who were associated with him in land interests, and never until just before his death in 1836, did he discover that his name had been used by those associates in the acquisition of lands by means that he did not approve. Writing to his brother-in-law just before his death, and referring to the incident, he said: "Since these men have betrayed me and forgetting their country, have turned land jobbers, who shall I trust? I once thought all men were honest until they were proven dishonest," and then he said that this betrayal almost induced him to reverse the rule.

#### THE FATHER OF TEXAS.

We have been increasing in population so much faster than we could assimilate it that the question is sometimes asked from ignorance, what did Austin do that should entitle him to be called the father of Texas. Let Generals Houston and Lamar, the presidents of the republic, answer. On the floor of the American Senate, on the first day of August, 1854, General Houston said: "Stephen F. Austin was the father of Texas. This is a designation justly accorded him, as will be testified to by every man who is acquainted with the primitive history of Texas or its progress as long as he lived. Stephen F. Austin is entitled to that honor. It is due to his friends to whom his memory is most dear and sacred. Sir, posterity will never know the worth of Stephen F. Austin, the privations he endured, the enterprise he possessed, his undying zeal, his ardent devotion to Texas and its interests, and his future hopes connected with its glorious destiny."

General Lamar said: "The claims of General Austin on the affections of the people of Texas are the strongest kind. He was not only the founder of the republic, but scarcely a blessing has flowed to our country which might not be fairly attributed to his unwearied exertion for its welfare, whilst almost every calamity which has befallen it might have been avert-

ed by an adherence to his wise and prudent counsels. The world has offered but few examples of superior intelligence and sagacity, and far-seeing, disinterested and intelligent philanthropy, his long suffering for the weal of others, his patient endurance under persecution, his benevolent forgiveness of injuries, and his final sacrifice of health, happiness and life in the service of his country, all conspire to place him without a rival among the first of patriots and the best of men."

When these two presidents of the republic unite in according to Austin such proud pre-eminence in Texas, no man of to-day can question his title as "The Father of Texas" without announcing his own ignorance.

It is not strange that Houston should have become the first president of the Republic. Fresh from the victory of San Jacinto, he became the idol of the people. The laurel placed by victory on the brow of a successful chief dims with its radiant sheen the bays that crown the statesman. But in Austin's heart there was no jealousy, and when Houston surveyed the men around him for a Secretary of State, Rusk, Henderson, the Whartons and Lamar were all passed by and Austin selected, who came with alacrity to his side. But the stricken eagle was hurrying to his last rest; the chains and cold walls of a Mexican dungeon had done their work, and Austin, who lived to see the assassins of the Constitution of 1824 driven from the soil of Texas, calmly closed, on the 27th day of December, A. D. 1836, at Columbia, his earthly pilgrimage.

#### HOUSTON AND AUSTIN.

There is one sad parallel in the lives of Austin and Houston: Each was, to a degree, the victim of his own conservatism. The fear of Austin's conservatism in 1836 alone deprived him of the presidency. Houston's conservatism in 1861 drove him from the Gubernatorial chair when Texas had become a mighty State. I saw him walk sadly but with crest unbowed from the capitol when he was deposed by the secession convention of 1861, because he would not sanction a policy which would launch Texas in an unequal contest with sister States.

I am painfully conscious of my inability to do justice to the memory of Stephen F. Austin. He who could for fourteen years calm the turbulent pioneers of the prairies and the wil-

derness, with no other weapon than their love and respect for him, was no ordinary man.

He who, in the beginning of a desperate revolution, was selected by such men as Presidents Burnet, Burleson, Collingsworth, Rusk, Bowie, Travis and Fannin as their leader, must have been a remarkable man.

#### SUMMARY OF DIFFICULTIES.

He came to this fair land, not with armed men nor with wealth to purchase dominion, but in the majesty of a pure manhood he sought and obtained authority to extend the area of civilization by the conquests of peace and industry. He came not only unheralded by friends and unsupported by government, but warned by the bleaching bones of his unburied countrymen that race prejudice would watch the progress of his colony with distrust and suspicion. And yet with such consummate wisdom and discretion did he move forward to accomplish his lofty mission, that while confidence in the man supplanted in the breasts of the Mexican chiefs their hereditary distrust of his race, his American followers idolized him and obeyed without murmuring.

No stable government protected his colonies; they were planted in the midst of contending factions and of civil war. No friendly force stood between the pioneer and savage hordes; for the hand that held the plow was the only protector for the family against the scalping knife and tomahawk. History furnishes no parallel of a peaceful colony successfully established in the midst of such complicated dangers. The high intelligence and unselfish devotion of the great empresario alone preserved his followers. When the true history of Texas is written, it will be made manifest that the separate nationality of Texas was the pole star that guided him, and that his caution, under which the turbulent spirits around him sometimes chafed, more than once saved the colonies from ruin.

#### HIS LOVE FOR TEXAS AND PRIVATE CHARACTER.

He who never knew the love of wife or child lavished the affections of a noble nature to the land of his adoption. Writing to General Gaines, in 1836, he said: "The prosperity of Texas has been the object of my labors, the idol of my existence; it has assumed the character of a religion for the guidance of my thoughts and actions of fifteen years, superior to all

pecuniary or personal views of any kind." Little children loved him and and mothers looked up to him as at once their benefactor and preserver. The rude hunters and pioneers whose lands he had secured, welcomed him to their cabins, and rejoiced when he came. I once heard Colonel Frank Johnson say that Stephen F. Austin had a home in the cabin of every settler. His letters, written to his kindred during the dark days of revolution, reveal the inner man and show a heart beating warm with the impulsive love of a boy.

I have enjoyed the privilege of reading his unpublished correspondence with his relatives, and as the friend and one of the literary executors of his old companion in arms, Colonel Frank Johnson, I have also had the means of knowing well the private life of Stephen F. Austin. In his intercourse with those he loved he exhibited the gentle nature of a woman. No man ever heard a profane oath escape his lips, and the purity of his life, which was typified in his face, softened that dignity which was habitual and deprived it of asperity. Avarice could not corrupt the lofty nobility of his nature, and when his earthly pilgrimage had ended, he died respected and loved by all, in the very room in which Santa Anna had been confined as a prisoner.

The bulletin from the war office which proclaimed his death announced it in these words: "The father of Texas is no more." It needed only this to inform the men of that day who it was that had died. Every flag in the republic went to half mast, and in every cabin there was mourning.

No monumental shaft marks his obscure resting place, but nature, mindful of her son, on each returning spring, decks his grave with the wild verbena, the primrose and the lupin, while from a neighboring oak, the mocking bird of his own dear land, sings her wild triumphant requiem.

#### GRATITUDE OF REPUBLICS.

If republics are ungrateful, surely they are sometimes forgetful. Our era is one of material development. In this new age of steam and of iron, of avarice and of cash, the æsthetic is dwarfed by the real, yet surely in the race for material progress, some gratitude should be shown the memory of those who wrought with patient toil

to lay broad and deep the foundations of our prosperity.

Texas has enclosed on a neighboring height a burial place for her illustrious dead. There rest Albert Sidney Johnston, Hemphill and Lipscomb, Burleson and Scurry, with others who have served the State. The ashes of Austin should find there a last resting place. Over them Texas should erect a grateful memorial in lasting granite, on which should be inscribed the name and public services of Stephen F. Austin. To that spot, as to a Mecca, our pilgrim youth would come and thence draw inspirations of love and fealty to this mighty State.

#### ACCEPTANCE BY SPEAKER ALEXANDER.

The Speaker, in behalf of the two houses and the State of Texas, accepted the gift in the following words:

As the humble representative of the House of Representatives, over whose deliberations I have the honor to preside, I accept this beautiful gift from the worthy descendants of the noble hero whose character has been so eloquently portrayed, and I hope I assume no undue liberty in speaking for the Chief Executive of our peerless Commonwealth, who graces this solemn and eventful occasion with his presence; the honorable Senators, whose presiding officer occupies a place on this stand, and the great people of Texas, whom we here represent, in tendering to these gentlemen their heartfelt thanks for this portrait of the heroic pioneer, whose incorruptible virtues and pre-eminent abilities won the homage of the people he so faithfully served, and whose unsullied fame the people of Texas will ever cherish as a common heritage, being equally as indivisible as are the sacred memories of the Alamo or the glories of San Jacinto.

So much has been said, and so eloquently spoken, too, by my distinguished friend, in portraying his virtues and recounting his public services, that it would be a work of supererogation for me to attempt to add anything to that truthful recital of historic events in his life, or to cast an additional ray of light upon the character of Stephen F. Austin, the hero, patriot and statesman, who has been so appropriately called the "Father of Texas."

In behalf of the people of whom this branch of the government are representatives, I again thank you for this beautiful gift. [Prolonged applause.]